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September 25, 2002

The Honorable Gary E. Walsh  
Executive Director  
Public Service Commission of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

Re: Application of BellSouth Telecommunications, Inc. to Provide In-Region  
InterLATA Services Pursuant to Section 271 of the Telecommunications  
Act of 1996  
Docket No: 2001-209-C

Dear Mr. Walsh:

This letter responds to your letter of September 10, 2002, allowing all parties the opportunity to respond to BellSouth's August 29, 2002, letter proposing modifications to the performance measurements associated with the Change Control Process.

In Order No. 2002-77, the Commission ordered BellSouth to "include in the SQM appropriate metrics that measure and assess BellSouth's responsiveness to CLEC-initiated changes submitted to the Change Control Process ("CCP"), and BellSouth shall include at least one payment category under Tier 1 of the IPP for assessing the effectiveness of the CCP regarding CLECs." (Order, page 119, emphasis added.)

AT&T commends the Commission for its foresight in recognizing the importance of the CCP and the need to incent BellSouth's compliance with the process. However, BellSouth's proposal that no Tier 1 penalties be associated with the CCP metrics does not comply with the Commission's order, is without merit, and should be rejected.

As will be discussed further below AT&T proposes that each of the five existing CCP metrics having associated Tier 2 penalties be modified to also generate Tier 1 penalties to the CLECs harmed by BellSouth's performance failures and that three additional metrics be included in the Incentive Penalty Plan ("IPP"). The following summary table contrasts BellSouth's and AT&T's proposals to comply with the Commission's Order.



Recycled Paper

SQM Change Control Process Metric	BellSouth Proposed IPP Treatment		CLEC Proposed IPP Treatment	
	Tier 1	Tier 2	Tier 1	Tier 2
CM-1 Timeliness of Change Management Notices		X	X	X
CM-2 Change Management Notice Average Delay Days			X	X
CM-3 Timeliness of Documents Associated with Change		X	X	X
CM-4 Change Management Documentation Average Delay Days			X	X
CM-5 Notification of CLEC Interface Outages				
CM-6 Percent of Software Errors Corrected in X (10, 30, 45) Business Days		X	X	X
CM-7 Percent of Change Requests Accepted or Rejected Within 10 Days		X	X	X
CM-8 Percent Change Requests Rejected				
CM-9 Number of Defects in Production Releases (Type 6 CR)			X	X
CM-10 Software Validation				
CM-11 Percent of Change Requests Implemented Within 60 Weeks of Prioritization		X	X	X

### **Tier I Penalties Are Appropriate**

The South Carolina Commission's order to "include at least one payment category under Tier 1 of the IPP" (Order, page 119) was carefully considered and, as BellSouth points out, was reconsidered. Nothing has changed since February 14, 2002, when the Commission issued its final order that makes the Commission's decision inappropriate.

In its letter, BellSouth attempts to create the false impression that somehow there are "risks inherent in a Tier 1 CCP penalty," that no state is considering Tier 1 penalties, and that such a measure "is an invitation to the CLECs to game the measurement process and the CCP process." (BellSouth Letter, page 4) BellSouth goes on to support its false claims by misrepresenting the purpose and relationship of Tier 1 and Tier 2 payments and by stating that Tier 1 penalties "would be almost impossible to administer." (BellSouth Letter, page 5)

Tier 1 penalties exist to compensate CLECs for harm when BellSouth fails to perform at objective levels. Tier 2 payments, in contrast, are a regulatory penalty imposed when BellSouth's performance failures impact the competitive market as a

whole. Both types of payments can be, and are, imposed simultaneously. Further there is no process of escalation required as BellSouth implies. The existing process often does not apply a Tier 2 penalty until a number of Tier 1 events have occurred. This is not, however, an escalation process. When individual CLECs are harmed by BellSouth's failures to meet CCP metrics, Tier 1 penalties are appropriate and will increase BellSouth's incentive to meet the CCP metrics.

The only "risk" even implied in BellSouth's letter is its fear that somehow Tier 1 penalties are an invitation to CLECs to game the system. BellSouth's own letter and example demonstrates that this risk is virtually non-existent and that any gaming would be instantly visible to the Commission. The CCP process requires CLEC collaboration, joint prioritization, and joint issue resolution to result in the timely and accurate implementation of changes. (BellSouth Letter, page 4) No CLEC has any incentive to "submit a large number of meaningless requests" as BellSouth suggests, and any such attempt would be instantly detected, recognized and dispatched.

The administration of Tier 1 penalties for CCP metrics failures should be no more difficult than the administration of other Tier 1 penalties requiring allocation of payments to CLECs harmed by a common BellSouth performance failure. BellSouth's example of a "low priority" request failing to be implemented in 60 weeks is a red herring. The metric requires the implementation of all requests within 60 weeks of prioritization. When a request is not implemented within the required timeframe, all CLECs using the associated OSS are harmed, not just the CLEC that initiated the request. An allocation methodology upon which a methodology for use in the BellSouth states could be created exists in New York, where all penalties are Tier 1.

Finally, the CLEC proposals, summarized in the table above, are already before the Florida Commission for consideration<sup>1</sup>. A two-day workshop during which these proposals and other changes to the SQM will be considered is being held on September 25/26, 2002.<sup>2</sup>

### **CCP Developments**

In its letter BellSouth discusses a number of events and activities associated with the CCP that have occurred since early 2002, or are planned to occur in the future. BellSouth characterizes these events as an evolution of the CCP that it has participated in either voluntarily or collaboratively. Further, BellSouth implies that these events have somehow met the scope of the South Carolina Commission's Order. This characterization glosses over the fact that many of these events have occurred as the direct result of regulatory orders in Florida and Georgia.

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<sup>1</sup> FPSC Docket No. 000121A-TP. An ALEC (Florida's term for CLEC) Coalition consisting of AT&T, WorldCom, Z-Tel, COVAD, New South and Mpower filed comments including these recommendations on August 30, 2002, and supporting supplemental information on September 11, 2002.

<sup>2</sup> Telephonic access to the Workshops is available each day. The calling numbers are 850-921-5320 for the 25<sup>th</sup> and 850-488-8295 for the 26<sup>th</sup>.

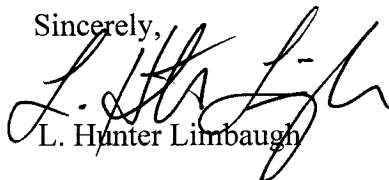
Most recently, on September 17, 2002, the Georgia Commission adopted its Staff's Recommendation to require BellSouth to implement significant changes to the CCP that BellSouth refused to consider during collaborative meetings with the CLECs ending on May 2, 2002<sup>3</sup>. Many of the issues resolved by the Georgia Commission's action relate directly to BellSouth's future performance against the CCP metrics.

The evolution of the CCP that has occurred since the South Carolina Commission's Order was issued on February 14, 2002 does not eliminate the need for Tier 1 penalties the Commission ordered. Rather, the continued need for regulatory involvement to bring about such evolution demonstrates the need for Tier 1 penalties to provide BellSouth additional incentive to become truly proactive regarding the CCP.

### **Conclusion**

The Commission correctly determined that BellSouth should be subject to Tier 1 penalty payments for failures to meet CCP metrics performance objectives. The evolution of the CCP including the ordered implementation of six new metrics provides no reason for the Commission to reach a different conclusion now. BellSouth's status quo proposal should be rejected. AT&T respectfully submits that the Commission consider its proposal that each of the five existing CCP metrics having associated Tier 2 penalties be modified to also generate Tier 1 penalties to the CLECs harmed by BellSouth's performance failures and that three additional metrics be included in the IPP.

Sincerely,



L. Hunter Limbaugh

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<sup>3</sup> Georgia Performance Measures Six Month Review. Docket No. 7892-U.